

**TOWN OF YORK PLANNING BOARD**  
**THURSDAY, FEBRUARY 24, 2005, 7:00 PM**  
**YORK SENIOR CENTER**

Chairman Barrie Munro began the meeting at 7:05. The entire Planning Board was present: Barrie Munro, Glenn Farrell, Richard Smith, Glen MacWilliams, Tom Manzi, and alternates Lee Corbin and Michelle Moody. Town Planner Steve Burns represented staff. Patience Horton took minutes. The meeting was neither televised nor sound-recorded because the Senior Center is not rigged for those devices. There were seven motions made. One was withdrawn.

The order of the agenda was changed. Cape Neddick Village was postponed. Hannaford Bros./Kennebunk Savings came first, the Atlantic House and Kearsarge House applications came next, and the Meadows at Highland Farms was moved to the end of the meeting.

**Public Input**

**Open to the public to address any issue other than issues scheduled for public hearings on this agenda.**

No one came forward to speak.

**Minutes**

**Review and approval of draft minutes.**

The January 13 and January 27, 2005, Minutes were reviewed. Glenn Farrell asked for clarification of his comments on Pages 3 and 5 (Dunkin Donuts), and Tom Manzi asked for clarification on Page 9 (David Woods).

**Motion** Glen MacWilliams moved to accept the January 13, 2005, minutes as discussed and amended. Glenn Farrell seconded the motion, which passed 5-0.

There were no changes to the January 27 minutes.

**Motion** Glenn Farrell moved to approve the January 27, 2005 minutes as submitted. Glen MacWilliams seconded the motion, which passed 5-0.

**Cape Neddick Village. 1132, 1136 & 1244 U.S. Route One. Map 22/Lots 13A and 13C, and part of Map 97/Lot 5. Public Hearing. Continuation of application for a Route One Use Permit to construct 22,000 square feet of commercial space, plus apartments.**

Town Planner Steve Burns said that the applicant was waiting for a final determination about flood elevation from FEMA and had asked that the hearing be postponed until March.

**Motion** Glen MacWilliams motioned to postpone the Cape Neddick Village application. Tom Manzi seconded the motion. The motion passed, 5-0.

**Hannaford Bros. Company/Kennebunk Savings Bank. Map 53/Lot 27. Public Hearing. Application for a Route One Use Permit for a new bank on the lot in front of Hannaford supermarket.**

Town Planner Steve Burns described the proposed bank with drive-thru. Hannaford owns the property. Kennebunk Savings is the leaseholder. The application is complete. The signage is an item for Code Enforcement to deal with by making an opinion and finding the signs acceptable. Glenn Farrell suggested conditional approval based on Code Enforcement's decision. Chairman Barrie Munro asked if anyone in the audience was there to speak about the application, and since no one was, he did not open a public hearing.

**Motion** Tom Manzi moved to accept the application as complete for purposes of review. Glenn Farrell seconded the motion.

In discussion, Glen MacWilliams said that the plan lacked proper landscaping and architectural certification, making the application incomplete. Architect Mike Lassel said that he had certified plans with him that were identical to those previously submitted. He gave them to Glen MacWilliams, who deemed them acceptable, and to Steve Burns.

**Vote** The motion to accept the complete application passed, 5-0.

Steve Burns went through a list of outstanding issues. There are old maps and new maps on which the map and lot numbers are different. The Kennebunk Savings lot was not given an individual number in the past, and that shows up on old maps. He listed the 5 necessary sign-offs (police, public works, fire, water, and sewer). The plan does not currently, but will shortly, correctly identify the property owner as Hannaford, not Kennebunk Savings, as it is currently mistaken. Plan certification had been met moments before in the same meeting. Making Code Enforcement approval of the signs conditional to approval would be okay, in which event, a plan note would be necessary. Glenn Farrell said that signs have to comply with the York Sign Ordinance, and the colors scheme has to be presented to the Planning Board. Lee Corbin confirmed with the architect that the front of the building faces Hannaford Drive and the Irving gas station building, which wasn't defined at the prior hearing.

Barrie Munro read the text for the field changes policy, explaining how the applicant has to bring changes to the board for review and approval. He explained the occupancy permit process. He said that the ordinance language regarding finish materials was out of date and that any applicants wishing to use alternative materials had to bring and describe samples to the board.

Architect Mike Lassel put the site plan on the easel and pointed out plantings and green space. The archeological site on the property will be respected and enclosed with a bollard-and-chain configuration. Describing the elevation plan, he proposed clapboards of a durable, alternative, hearty plank product that will not require frequent painting. Glenn Farrell said it was a product the board had already approved for another application. The entrance stonework will be of “cultured stone.” The base of the building will also be of a manmade material. He displayed an earth tone color scheme of browns, beiges, and green. Lee Corbin asked about the green metal roof, which Mike Lassel said will be identical to the roof at Stonewall Kitchen. Glen MacWilliams said that the board should have the sample materials with documentation. Barrie Munro asked for specifications on the alternative products. Michelle Moody said that the plot plan does not show the drive-thru. The prettiest side should be facing Route One, according to the ordinance. She asked if an extra row of hedges could screen the parking lot. Barrie Munro suggested evergreens along the parking edge. Mike Lassel answered that customers want to be seen from the road, as it is a bank, and there are important security issues to consider.

Project Engineer Chris Austerities described the culverts and drainage design that will ultimately direct water to a retention pond on the Hannaford property. Glen MacWilliams asked about snow removal. Chris Austerities showed snow storage space south of the archeological site, and Brenda Keene, representing Kennebunk Savings, said snow would be removed from the bank property as part of the clearing process. Barrie Munro asked to add that information about snow removal as a plan note. Lee Corbin said she was concerned about control of the line of cars waiting for the drive-thru. Chris Austerities said that a queue line would not occur often, with there being 3 separate windows for the drive-thru. Also, many cars will be coming to the building to visit offices there, and not just the bank. Brenda Keene says that the other Kennebunk Savings, located in the Village, will draw customers, too. Michelle Moody asked where the recycling bins would be organized, as there appears to be no place for any on the plan, and York has mandatory recycling. Brenda Keene answered that Kennebunk Savings has its own recycling program, as well as a means of disposing of sensitive papers.

Chairman Barrie Munro said that the applicant could return in two weeks with revised buffering plans and a presentation about the alternative building materials.

**Motion** Glen MacWilliams moved to table the application until March 10, 2005. Glenn Farrell seconded the motion, which passed 5-0.

Chairman Barrie Munro asked the Highland Farm Subdivision representatives if they would let Atlantic and Kearsarge Houses, go ahead of Highland Farm, because the other applications would probably be short, and Highland Farms would probably be long. There was not objection.

**Atlantic House. 2 Beach Street. Map 24/Lot 44. Public Hearing. Conceptual review of revised development proposal, for retail on the ground floor, a restaurant on the second floor, and 6 residential units on the top floors.**

AND

**Kearsarge House. 6 Railroad Ave. Map 24/Lot 15. Public Hearing. Conceptual review of redevelopment of this building site.**

Barrie Munro explained that the hearing was a sketch review and not be legally binding. Steve Burns described Atlantic House as old hotel that would be converted to first-floor retail use, a second-floor restaurant, and six residential condominiums on the top two floors, eliminating the conceptual spa and function hall the applicant had described to the board several times in the past. Part of the problem had been parking requirements, which would be lessened in the proposed situation because of increased walk-in traffic and available off-site parking for the residential units. The properties are under the auspices of the Historic District Commission. The conversion is in keeping with the vision of the Comprehensive Plan. Barrie Munro concluded, the growth ordinance, streetscape improvements, and fire safety are concerns that have to be brought to the applicants' attention.

Bob Dunfey made a presentation for the Atlantic House, a/k/a Pop's Shell Shack, and Rivers-by-the-Sea, and he also represents Kearsarge House, owned by Harold Anderson. He explained that York Beach has to become more competitive with Ogunquit and Kennebunkport, at the same time drawing people from York and the surrounding community. He described the proposed Atlantic House restaurant as a destination restaurant with a celebrity chef. On a map of York Beach, he indicated the location of the potential parking lot, which is in close proximity to both applicant properties. The Kearsarge house would also have retail space, a restaurant, and 15 to 20 condos priced in the \$300,000 range. With both projects, he described how the condo spaces would be used temporarily as hotels before transitioning into residences. He would hope to see Atlantic House beginning construction in fall, 2005, and Kearsarge House a year later.

Barrie Munro opened the Pubic Hearing. David Peck of the Goldenrod asked about the size of the parking lot. Bob Dunfey said there were about 70 spaces there. David Peck said that construction should not take place in June, July, or August, and Steve Burns answered that there is a construction season imposed that does not include those months.

James Gambrill, a resident of York Beach, emphasized that whatever codes encompass the project, they must to be vigorously enforced. He asked if it will be required that the hotels really become condos, or if they might stay as hotels. The rules are different for the two entities. Also, he would hate to see the conditions in York Beach become worse. The chairman closed the Public Hearing.

Barrie Munro said that improvements to York Beach are important in the Comp Plan. He asked for the board's thoughts. Michelle Moody said that the parking would have to be reviewed. Glenn Farrell said that the applicants' first step would be to get a contractual agreement allowing use of that lot as a parking lot. An engineer would have to lay out the parking. A traffic study would have to be made. Tom Manzi agreed that the parking is the main sticking point. The \$300,000 condos don't fit with the structure of Beach cul-

ture, with the zoo and the amusement park. They will change it. Bob Dunfey replied that the houses around the zoo and the amusement park are still selling at a good price. Glen MacWilliams asked about the historical context of the buildings. Harold Anderson said that Kearsarge House had been built in 1896. He personally had bought it from the Shelton's 30 year ago.

Bob Dunfey asked about the growth ordinance, saying that the kitchens will be the problem, when he converts from hotels to condos. Glenn Farrell said that the applicants would have to meet the hotel ordinance first and then build-out the kitchen when they get the condo permits. Steve Burns said that the conversion would not be the Planning Board's concern. Neither does the board have any worry about the growth ordinance. Michelle Moody said that the Board of Selectmen would deal with the growth ordinance. Barrie Munro asked that when the applicants return, they bring more specifics.

**The Meadows at Highland Farm Subdivision. 301 Cider Hill Road. Map 90/Lots 29, 29A, 29B, 29C, 29D & 29E. Public Hearing. Application for Final Review of a 13-lot subdivision to supersede the existing approval for the Highland Farm Subdivision.**

Applicant Steve Wood introduced Attorney Hope Jacobsen and Engineer Steve Haight. Hope Jacobsen spoke about the ownership of the open space and management of easements. In January, she had met with members of the York Land Trust, who agreed to hold the deed for the open space. She went through some specifics and described the developing relationship between the subdivision's housing association and the Town. Steve Haight spoke of the ban on cutting trees down around the Garrison House, saying that the area was in a Wetland Overlay District, and the trees couldn't be cut, anyway. Steve Burns added that some trees could be selectively cut. Barrie Munro said that there would not be any cutting in the 50-foot buffer. Hope Jacobsen discussed the Homeowner's association covenants she had been writing, a copy of which she had delivered to the members of the board. She said that some items had been changed to reflect the board's concerns, including nesting areas, which would be designated in the association's rules and regs. Location placement of plan notes was discussed, as were the cliff garden and the gardens associated with the Lot 14 house.

Chairman Barrie Munro opened the Public Hearing. David Tibbitts of the York Conservation Commission said that the intent of the cluster housing is to prevent habitat fragmentation, which the upper cluster does not follow. After recently going to view GIS maps, he found that certain wetlands on that property, including one area where he had recently seen a skater skating, were not included on the map. He restated that his primary concern is the prevention of fragmentation of those wetlands, some of which are associated with the York River.

Doreen McGillis of the York Land Trust said that her group will hold an easement on the farmland open space, if there is a contingency of an agreement of language and stewardship donation, but she feels that Highland Farm is a poorly designed cluster that does not necessarily have a benefit to the town. She asked if the plan could be redesigned to add to the conservation value. She wanted to see Lots 8, 9, and 12 eliminated, and she

showed a potential corridor on the lot plan not only for animals, but also for people to cross.

Carol Donnelly spoke on behalf of the York River Association. The Highland Farm property is of high value for the Town of York, as it affects the upper reaches of the River and impacts the Mt. Agamenticus-to-the-Sea concept.

Helen Weinbaum said that the best approach to cluster property is to set aside the best natural resource areas from the very beginning, not the houses first. She said that that should be the custom and wisdom used in approaching cluster housing.

Barrie Munro closed the public hearing and opened board discussion, asking for a decision as to whether or not the application was complete for purposes of review for the final plan. Michelle Moody said she was concerned about the entire piece of land for wildlife corridors. She wondered if it was the best layout. Barrie Munro said that the cluster ordinance had to be reviewed, and can be, once the Natural Resources and the Scenic Resources chapters of the Inventory & Analysis are complete. Tom Manzi said that he was troubled by not being able to look at the top, un-proposed half of the development, which he called the "mystery zone." He said that the two areas are tied together and the unknown part will affect the conservation tremendously.

Glen MacWilliams referred to a letter from Hope Jacobsen stating that the applicant had made a layout that is appropriate for the site, and that the applicant was in discussion and was on board with the Mt. Agamenticus-to-the-Sea organization. It did not seem to him that the applicant was in discussion or on board with the organization. The idea that the upper cluster is being built on the only buildable land might not be appropriate. The wildlife corridors have not been defined. There are relevant open space issues complete for final approval, but there has not been discussion of wildlife areas, how they will be maintained, wildlife habitat, nor migration corridors.

Richard Smith asked what was the percentage of wetland-to-lot-size on Lots 4, 8, 9, 10, 11, and 12. Steve Burns said that that was not the time to reconsider the plan. It had already received preliminary approval. The applicant originally had some conceptual options about the backcountry, but did not have to present them. Helen Weinbaum had the right idea when she said to select the open space and then build around it. Glenn Farrell said that, if you make a mistake when you made the preliminary approval, you don't just go forward. The Highland Farm plan is better than what Ken Giles had. The board does not have the right by the ordinance to look ahead to the second part, which has not great lots. He said that he agreed with Glen MacWilliams, that the applicant had indicated that the Agamenticus-to-the-Sea organization was on board, but is not. Michelle Moody said she was surprised that there was allowance in the covenants for tenting and events in the open space. Richard Smith said that the ordinance does not allow the dedicated farmland for personal property--tents and whatnot.

Chairman Barrie Munro said that the Planning Board must either agree to the site plan, or not. Richard Smith asked again about the percentage of wetland. Steve Burns ran some

numbers he took from the plan through his calculator and answered that an average lot is about 80% wetland. It had been discussed before. The subdivision regulations about the percentage of wetlands do not apply in this case, because cluster has an alternative set of standards.

Engineer Steve Haight placed the original plan, made by former owner Ken Giles, on the easel, and said that Steve Wood had come up with an improved plan that replaced a terrible plan that the York Planning Board had once approved.

Barrie Munro said that though he did not like the direction the board discussion had taken, he wanted to know if a wildlife corridor could be added. Attorney Hope Jacobsen said that there is neither a provision for a wildlife corridor in the ordinance nor a requirement that the applicant has to show one exists.

The board discussed the February 24, 2005 letter from Lawrence C. Walden of Inland Fisheries and Wildlife. It said that the Highland Farm property is not a habitat for any endangered species, and that the development will not cause problems for any species. The letter's impact was considered negative by the board members.

**Motion** Tom Manzi moved that the application is not ready for final review. Richard Smith seconded the motion.

**Motion Withdrawn** Tom Manzi withdrew the motion.

Tom Manzi said he was concerned because the absence of understanding about the second phase creates a situation where the board does not know the consequences. Barrie Munro replied that if the applicant comes back with something about Phase 2 that doesn't work, the board does not have to accept it.

Glen MacWilliams said that in narrative 18.10.2 (f), the cluster layout preserves the natural landscape features, and wildlife is identified and preserved. That was the reason he did not agree with the applicant. Glenn Farrell said that he wished to see changes, but the ordinance does not give the board the authority to make them. Inland Fish and Wildlife had further weakened the board's position. He suggested putting notes on the current plan that will restrict what might happen in Phase 2. In the mean time, the application meets the cluster ordinance. Lee Corbin said that the board does not have the authority to ask the developer to bring forth a plan for the back section. The ordinance does not call for a wildlife corridor. The applicant met the ordinance. Michelle Moody said that the ordinance stands in the Planning Board's way.

Doreen McGillis of the York Land Trust said that flexibility on the part of the developer would make everyone feel better, but the situation is a matter of the law.

Helen Weinbaum said that the maps used by Inland Fisheries and Wildlife show an absence of certain species, but do not show a potential for those areas has habitation for the species.

**Motion** Glenn Farrell moved to accept the application for consideration. Barrie Munro seconded the motion. The motion passed, 3-2, with Barrie Munro, Glenn Farrell, and Richard Smith voting for, and Glen MacWilliams and Tom Manzi voting against.

Wrapping up, Barrie Munro said that there are issues about the subdivision covenants he hoped he could work on with Hope Jacobsen before the next meeting. Steve Burns said that Barrie Munro and/or other board members' possible work with Hope Jacobsen would be allowable, if the meeting is posted a couple of weeks in advance, and the public is invited to observe. Lee Corbin said there would have to be tree cutting for sight distances on Route 91, despite the no-tree-cutting policy established for Lot 14. Glenn Farrell said that sight distance cutting is under a different set of rules. Michelle Moody asked about the provision for tent events. Applicant Steve Wood said that the language about tent events came directly from the York Land Trust. Barrie Munro said that the language could be taken out, if the board wants to. Steve Burns said that at the next meeting, the abutters to Highland Farm will be invited, but there will not be a public hearing. A site walk was scheduled for Saturday, March 5, 2005, at 9:00 a.m.

The meeting adjourned at 11:05.